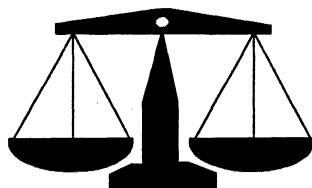


AUG 01 2000

**A SUMMARY OF SELECTED BILLS
TRULY AGREED TO AND FINALLY PASSED**

**By The
90th General Assembly
Second Regular Session**



**Prepared By
Office of State Courts Administrator
July 2000**

TABLE OF CONTENTS

	<u>Page</u>
Senate Bills and House Bills Listed by Bill Number.....	i
Introduction	1
Bill Summaries	2

SENATE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
SB 757	PROTECTION OF CHILDREN	2
SB 763	TELEMARKETING.....	3
SB 902	GAMING REGULATIONS.....	3
SB 944	SCHOOL SAFETY.....	4
SJR 35	COMMISSION ON COMPENSATION OF ELECTED OFFICIALS.....	4

HOUSE BILLS

<u>Bill Number</u>	<u>Title</u>	<u>Page</u>
HB 1321	INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.....	5
HB 1386	FINANCIAL EXPLOITATION OF THE ELDERLY	5
HB 1677	DOMESTIC VIOLENCE	5
HB 1808	RETIREMENT.....	5

INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts, or which appear likely to come to the attention of the courts within a short time. Some bills, which may provide for specific types of cases which are expected to be of low volume and therefore not of general interest, have not been included in this summary.

The individual summaries cover the major points of the bills or those sections that affect the courts, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Because of the disparate provisions in many of the bills, they have not been arranged by subject matter, but in numerical order. A table of contents is provided at the front of this document.

Except for the bills marked "vetoed," all bills included in this summary have been signed by the Governor. Signed bills become effective August 28, 2000, unless otherwise indicated. We have indicated the date signed on those bills with an emergency clause.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101

House Post Office
State Capitol
Jefferson City, Missouri 65101

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

HS SS#2 SCS SB 757 & 602 PROTECTION OF CHILDREN

This act revises various child protection laws and various criminal statutes, including those targeting children as victims. The majority of the provisions relate to DFS. This summary emphasizes those that are of interest to the courts.

SECTION 453.011 - Allows expedited procedure for contested proceedings regarding termination of parental rights or adoption of a child, including appellate procedures.

453.011. 1. In all cases in which the termination of parental rights or adoption of a child is contested by any person or agency, the trial court shall, consistent with due process, expedite the contested termination or adoption proceeding by entering such scheduling orders as are necessary to ensure that the case is not delayed, and such case shall be given priority in setting a final hearing of the proceeding and shall be heard at the earliest possible date over other civil litigation, other than division of family services' child protection cases.

2. In all cases as specified in subsection 1 of this section which are appealed from the decision of a trial court:

(1) The transcript from the prior court proceeding shall be provided to the appellate court no later than thirty days from the date the appeal is filed; and

(2) The appellate court shall, consistent with its rules, expedite the contested termination of parental rights or adoption case by entering such scheduling orders as are necessary to ensure that a ruling will be entered within thirty days of the close of oral arguments, and such case shall be given priority over all other civil litigation, other than division of family services' child protection cases, in reaching a determination on the status of the termination of parental rights or of the adoption; and

(3) In no event shall the court permit more than one request for an extension by either party.

3. It is the intent of the general assembly that the permanency of the placement of a child who is the subject of a termination of parental rights proceeding or an adoption proceeding not be delayed any longer than is absolutely necessary consistent with the rights of all parties, but that the rights of the child to permanency at the earliest possible date be given priority over all other civil litigation other than division of family services' child protection cases.

SECTION 491.074 - A prior inconsistent statement of any witness testifying in any criminal trial shall be received as substantive evidence. Currently, this provision is limited to prosecutions for offenses against the person, sexual offenses or offenses against the family.

SECTION 559.115 - A court may not grant probation to defendants convicted of certain crimes, including abuse of a child pursuant to Section 568.060, RSMo, when classified as a Class A felony. Abuse of a child is a Class A felony when the offense results in the death of the child.

SECTION 556.063 - Recodifies and revises definitions relating to computer crimes.

SECTION 566.010 - Defines "deviate sexual intercourse" to include fondling.

SECTION 566.025 - In prosecutions of a sexual nature involving victims under fourteen years of age, evidence of past offenses of a sexual nature against children under fourteen will be admissible unless the court finds that the probative value of such evidence is outweighed by the prejudicial effect.

SECTION 566.067 - A person commits the crime of child molestation in the first degree if he subjects a child less than 14 years of age to sexual contact. The penalty for child molestation in the first degree, currently a Class C felony, is increased to a Class B felony. If the actor is a repeat offender, inflicts serious physical injury, displays a weapon or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, the penalty, currently a Class B felony, is increased to a Class A felony.

SECTION 566.068 - A person commits the crime of child molestation in the second degree if he subjects a person less than 17 years of age to sexual contact. The penalty for child molestation in the second degree is a Class A misdemeanor. If the actor is a repeat offender, inflicts serious injury, displays a weapon, or commits the offense as part of a ritual or ceremony, the penalty is a Class D felony.

SECTION 568.052 - Creates the crime of leaving a child unattended in a motor vehicle. The crime is a Class A misdemeanor if an unattended child 10 years of age or less causes the motor vehicle to injure another person, and a C felony if the injury is fatal.

SECTION 568.065 - Creates the Class B felony of genital mutilation.

SECTION 568.110 - Currently any film or photographic print professional who observes images depicting a child less than 17 engaged in sexual conduct had a duty to report to law enforcement; failure to do so is Class B misdemeanor. The act extends this duty to any computer provider, installer or repair person, or Internet service provider, and changes the age of the child involved to any child less than 18. Nothing in this section shall require a provider to monitor users or customers.

SECTION 573.010 - Defines "child" as any person less than 14, for the purposes of Chapter 573.

Updates other definitions to include references to computer use.

SECTION 573.020 - Adds a provision to allow prosecution for Class D felony of promoting obscenity in the first degree, for using a computer to distribute pornographic material to minors if the defendant had knowledge that the person to which information was supplied was a minor.

SECTION 573.024 - Creates the crime of sexual exploitation of a minor, for creating child pornography or obscene material with a minor. The penalty is a Class B felony unless the minor is a child, in which case it is a Class A felony.

SECTION 573.025 - Revises crime of promoting child pornography in the first degree to include reference to computer use. The crime is a Class B felony unless the person knowingly promotes such material to a minor, in which case it is a Class A felony.

SECTION 573.030 - Revises crime of promoting pornography for minors or obscenity in the second degree to include reference to computer use.

SECTION 573.035 - Revises crime of promoting child pornography in the second degree to include reference to computer use. Increases penalty from the current Class D felony to a Class C felony, unless the person knowingly promoted such material to a minor, in which case it is a Class B felony.

SECTION 573.037 - Possession of child pornography shall include possession or control of any visual depictions of a minor involved in sexual contact. The crime is a Class A misdemeanor, unless the offender has a previous such offense, in which case it is a Class D felony.

SECTION 573.040 - Revises crime of furnishing pornographic material to minors to include reference to computer use.

SECTION 589.400 - Currently certain persons must register for specified crimes involving a victim less than 17; this act revises the age of the victim to a person less than 18. The registration requirement is extended to persons required to register in another state or under federal or military law. Registration is a lifetime requirement unless all such offenses are vacated or reversed, or the registrant is pardoned.

SECTION 589.425 - Failure to meet all registration requirements is a Class A misdemeanor; subsequent violations are a Class D felony. 210.110, 210.145, 210.152, 210.192, 210.195, 491.074, 566.010, 566.025, 566.067, 566.068, 568.110, 569.093, 573.010, 573.020, 573.025, 573.030, 573.035, 573.037, 573.040 and 660.520, RSMo 1994, and sections 210.001, 210.109, 210.115, 210.150, 453.005, 559.115, 589.400, 589.410, 589.414 and 589.425, RSMo Supp. 1999

This summary was excerpted from the summary prepared by Senate staff.

CCS HCS SS SCS SB 763 TELEMARKETING

This bill regulates various telemarketing and electronic mail practices. There are new criminal penalties created, and enhanced penalties for subsequent convictions for some crimes. 407.020, RSMo Supp. 1999

CCS HCS SS SB 902 GAMING REGULATIONS

This bill makes changes to licensing and enforcement procedures for gaming. Several new crimes are created including: a problem gambler may voluntarily exclude himself/herself from an excursion gambling boat and any person who is self-excluded is guilty of trespassing in the first degree if such person enters an excursion gambling boat; persons who present false identification to gain entrance to an excursion gambling boat, cash a check or verify entitlement to be present on the boat are guilty of a class B misdemeanor for the first offense and a class A misdemeanor for second and subsequent offenses; and, the act prohibits anyone under 21 from wagering on an excursion gambling boat, prohibits permitting anyone under 21 to make a wager while on an excursion gambling boat, and prohibits assisting a person

under 21 to make a wager on an excursion gambling boat. Violators are guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for any subsequent offenses. 313.008, 313.270, 313.805, 313.807, 313.812, 313.815, 313.817, 313.820, 313.822, 313.825, 313.827, 313.830 and 313.837, RSMo 1994, and sections 313.835 and 313.842, RSMo Supp. 1999

CCS #2 HCS SB 944 SCHOOL SAFETY

This bill contains numerous provisions aimed at increasing school safety. The provisions that affect the courts include:

School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

Expands the entities responsible for notifying a school district when pupils have committed certain acts to include the sheriff, chief of police, or other appropriate law enforcement authority. Upon the disposition of any such case, the juvenile office or prosecuting attorney or their designee shall send a second notification to the superintendent providing the disposition of the case, including a brief summary of the relevant finding of facts, no later than five days following the disposition of the case. (167.115)

The juvenile divisions of the circuit courts and the departments of social services, mental health, elementary and secondary education and health shall share information regarding individual children who have come into contact with, or been provided services by, the courts and such departments. All information received by a court, any department or any school district pursuant to this section shall remain subject to the same confidentiality requirements as are imposed on the department that originally collected the information. With regard to the information required to be shared pursuant to this section, the department of elementary and secondary education shall only share information on students who have committed an act which, if it had been committed by an adult, would be a misdemeanor or felony offense pursuant to the laws of Missouri, other states or the federal government. (210.865)

A petition for the appointment of a guardian of a minor may be filed for the sole and specific purpose of school registration or medical insurance coverage. Such a petition shall clearly set out this limited request and shall not be combined with a petition for conservatorship. (475.060) If a petition for the appointment of a guardian of a minor is filed for the sole and specific purpose of school registration or medical insurance coverage, upon the filing of an affidavit by the petitioner stating that, after due and diligent effort to the best of his or her ability, the whereabouts or identity of either or both parents of the minor remains unknown, the court may proceed with the appointment of such a guardian without having obtained service upon the parents of the minor. (475.070)

The bill also creates the crimes of trespass of a school bus and making a terroristic threat.

CCS HCS SS SS#3 SJR 35 COMMISSION ON COMPENSATION OF ELECTED OFFICIALS

If the voters approve this resolution, the General Assembly would no longer have the authority to disapprove of the Commission's recommendations. Second, all of the recommendations would be subject to appropriations just as are the salaries of all other state employees. The General Assembly shall not appropriate funds that retroactively increase the salary of persons whose compensation is fixed by the commission. Finally, the amendment deletes the word "compensation" and replaces it with "appropriate annual salary" thereby removing the responsibility to set the amount of per diem and mileage allowances elected officials are to receive. Article XIII, Section 3

HOUSE BILLS

HB 1321 INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

This bill relates primarily to Probation and Parole. It establishes the Interstate Compact for Adult Offender Supervision. Under this compact, an interstate commission is created. The commission's duties include establishing uniform procedures to manage the movement of adult offenders under community supervision between participating states; ensuring the opportunity for input and providing a timely notice to victims and jurisdictions where offenders are authorized to travel across state lines; establishing a uniform data collection system; monitoring compliance of interstate movement of offenders and initiating interventions to address noncompliance; and coordinating training programs regarding interstate movement for officials involved in such activities. Chapter 589, RSMo

HB 1386 & 1086 FINANCIAL EXPLOITATION OF THE ELDERLY

This creates the crime of financial exploitation of the elderly or disabled. The crime is committed when a person who stands in a position of trust and confidence with an elderly or disabled person knowingly uses deception or deceit to take control over that person's property with the intent to permanently deprive him or her of it. Financial exploitation of an elderly or disabled person is a class A misdemeanor for property worth less than \$250 and a class C felony for property worth \$250 or more. Chapter 570, RSMo

SCS HS HCS HB 1677, 1675 & 1678 DOMESTIC VIOLENCE

Expands the laws regarding domestic violence by: providing for insurance recovery for an innocent co-insured who cooperates in prosecution of a perpetrator; expands "family and household member" to include an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim; expands temporary restraining orders; requires offenders to pay medical costs of victims; establishes the "Missouri Domestic Violence Commission" within the department of public safety; widens applicable rules of evidence; and, creates new crimes and sentencing provisions. 455.085, 455.220 and 455.230, RSMo 1994, and sections 210.001, 375.1312, 455.010, 455.045, 455.050, 455.205, 455.540, 455.543, 455.545 and 565.063, RSMo Supp. 1999

SS SCS HB 1808 RETIREMENT

JUDICIAL SYSTEM AND PROSECUTORS Starting September 1, 2000, judges who retired before August 28, 1995, may become special consultants who will have their retirement benefits recalculated to incorporate all annual cost-of-living increases that retired judges received between any judge's eligibility for retirement and actual retirement. Judges with 10 years of service who are serving as judges or prosecutors may receive additional credited service for previous public employment under certain conditions. Prosecutors with more than 8 years of service may receive a reduced benefit upon retirement at 62.

MISSOURI STATE EMPLOYEES' RETIREMENT SYSTEM (MOSERS) AND HIGHWAYS AND TRANSPORTATION EMPLOYEES AND HIGHWAY PATROL RETIREMENT SYSTEM (HTEHPRS) Effective January 1, 2001, the system will provide life insurance for employees covered by MOSERS, judges, and administrative judges, and upon the election of the Highways and Transportation Commission, Highways and Transportation Employees and Highway Patrol Retirement System (HTEHPRS) employees, in the amount of the rate of annual pay, with a minimum of \$15,000, rather than the current flat \$15,000. This provision applies to both the existing plans and the Year 2000 Plan. The 2-year marriage requirement for MOSERS and HTEHPRS is removed from the surviving spouse benefit for

members and disabled members who die before retirement under the existing plans. Under a current option in the existing MOSERS plan, a member may elect surviving spouse benefits if the member has been married for at least one year before electing the benefit. The bill removes the one-year period and requires that such election be made within one year from the date of marriage. A parallel change is made in the Year 2000 Plan. Retired members may make an election within one year after the date of marriage to name the new spouse as a beneficiary. The definition of creditable service under the existing plans clarifies that a day of creditable service cannot exceed one calendar day of eligible service credit. Under the existing MOSERS plan, employees, administrative law judges, and judges may elect within one year of subsequent employment in a MOSERS--administered position to purchase creditable service rather than within 90 days after a year of such employment. Currently, an employee in a MOSERS-administered position who had non federal full-time public employment may purchase creditable service. The bill adds employees who had provided full-time services to the state by contract and adds requirements for purchase of such service. The bill permits creditable service under certain conditions for circuit clerks for actively employed members. The bill removes the one-year, re-employment period for restoration of forfeited service as of August 28, 2000. For retired members who are elected or appointed to state office or enter employment in a position that requires at least 1,000 hours per year, the one-year waiting period for counting creditable service is removed and a method for counting creditable service for calculating additional annuity amounts is created.

Eligible members under the Missouri Consolidated Health Care Plan may retain coverage for themselves or dependents if they had coverage at the last open enrollment period or under a separate plan within 6 months of termination or eligibility for benefits. 70.605, 70.661, 70.680, 70.685, 86.203, 86.207, 86.210, 86.213, 86.217, 86.220, 86.227, 86.237, 86.240, 86.243, 86.247, 86.250, 86.257, 86.263, 86.270, 86.277, 86.288, 86.290, 86.293, 86.297, 86.300, 86.303, 86.307, 86.310, 86.313, 86.317, 86.323, 86.327, 86.330, 86.337, 86.340, 86.343, 86.344, 86.350, 86.353, 86.357, 86.360, 86.364, 86.365, 86.366, 86.403, 86.433, 86.437, 86.442, 86.493, 86.675, 86.730, 86.780, 87.120, 87.176, 87.230, 87.237, 103.085, 104.140, 104.345, 355.561 and 355.596, RSMo 1994, and sections 67.210, 70.655, 70.675, 84.160, 86.200, 86.248, 86.251, 86.252, 86.253, 86.254, 86.255, 86.256, 86.260, 86.267, 86.280, 86.283, 86.287, 86.320, 86.354, 86.440, 86.441, 86.447, 86.483, 86.750, 86.770, 104.010, 104.090, 104.103, 104.335, 104.344, 104.350, 104.372, 104.380, 104.395, 104.420, 104.517, 104.610, 104.1015, 104.1024, 104.1027, 104.1042, 104.1072, 104.1090, 168.021, 169.060, 169.070, 169.075, 169.600, 169.620, 169.663, 169.670, 476.690 and 513.430, RSMo Supp. 1999